IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.4119 OF 2006

M/s.Rajasthan Spinnin & Weaving Mills Ltd. ...Applicant

Versus

The State of Maharashtra ...Respondent

Shri Gaurav Agarwal for the Applicant.
Ms S.V.Gajare, A.P.P for the Respondent.

CORAM : A. S. OKA, J.

DATE : NOVEMBER 28, 2006.

P.C.:

1. Heard the learned Advocate for the Applicant and the learned A.P.P for the State. The Applicant is the complainant in a complaint filed under section 138 read with section 141 of the Negotiable Instruments Act, 1881. The Application discloses that the learned Magistrate ordered issuance of proclamation under section 82 of the Code of Criminal Procedure, 1973. By order dated 30th June, 2006, the learned Judge directed that the proclamation notice should be published in daily Free Press Journal, Mumbai and daily Loksatta, Mumbai. By further order dated 31st August, 2006, the learned Trial Judge directed that the publication notice shall be also published in a newspaper at New Delhi.

2. The grievance of the Applicant is that the cost of publication of notices in three newspapers will be exorbitant. He submitted that it is not mandatory that notice has to be published in daily newspapers.

3. Sub-section 2 of section 82 of the Code of Criminal Procedure, 1973 reads thus:

> "82.(2) The proclamation shall be published as follows:-
>
> (i)(a) it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;
>
> (b) it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;
>
> (c) a copy thereof shall be affixed to some conspicuous part of the Court-house;

(ii) the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides".

4. It is obvious that it is not mandatory that in every case the proclamation has to be published in a daily newspaper circulating in the place in which accused ordinarily resides. The publication in newspaper is to be ordered in a given case in addition to publication of proclamation in a manner provided in clause (i) of sub-section 2 of section 82 of the said Code. The learned counsel for the Applicant states that the Applicant is ready and willing to publish the proclamation in daily Free Press Journal, Mumbai and daily Business Standard published at Delhi.

5. Considering the facts and circumstances of the case, in my view, the orders impugned deserves to be modified.

6. Hence, I pass the following order:

(i) The proclamation issued against accused Nos.2

and 4 shall be published in a manner provided in clause (i) of sub-section 2 of section 82 of the Code of Criminal Procedure, 1973.

(ii) In addition to the publication as aforesaid, the Applicant will publish notice of proclamation in daily Free Press Journal at Mumbai and daily Business Standard at Delhi.

(iii) The publication to be made within a period of eight weeks from today. The returnable date of the proclamation shall be fixed by the learned Trial Judge.

(iv) To the extent stated above, the orders dated 30th June, 2006 and 31st August, 2006 are modified.

(v) Application is disposed of accordingly.

(vi) Parties and concerned court to act upon an authenticated copy of this order.

JUDGE